

IDAHO BOARD OF COSMETOLOGY
Meeting of the Board
June 5, 2000

Meeting called to order at 8:30 a.m. Roll call: Christy Stutzke, Chair; Carol Martin, Vice-Chair; Patrick Ulsh, Kimber Hicks, Geneal Thompson, Secretary. Bureau staff present: Tomas E. Limbaugh, Bureau Chief; Budd Hetrick, Deputy Bureau Chief; and Helen Piippo, Cosmetology Board Secretary.

Others present: Tom Gilbertz, Miki Wick, Eric Negaard, Wendy Hersel, Terri Hill, Carrie Parot, Billi Pino, Maria Shearer, Yvette Serrano, Angie Jensen, Dodi Ruchti, Charlene Wicks, Mary Crowell, E.B. Scholes Jr., Tamie Nethery, LaDonn Goodfellow, Ronda Clark, Nancy Roland and Michelle Runke

Motion by Ms. Martin to accept the minutes of the February, 2000 board meeting and April, 2000 conference call meetings. Seconded by Mr. Ulsh. Motion by Mr. Hicks to amend April 2000 conference call minutes to read that first time failures be automatically scheduled for the next exam, and that the required fees be paid. Motion by Mr. Hicks that April conference call minutes be approved as amended. Seconded by Mr. Ulsh. Motion carried.

Discussion was held regarding having the instructor exam each month along with cosmetology and nail technology exams. Testing for esthetics and electrology would be done every other month. This would begin in January 2001. Motion by Mr. Hicks that monthly exams would include cosmetology, nail technology and instructor, and that esthetics and electrology exams be held six times a year beginning in January and be held every other month. Seconded by Ms. Martin. Motion carried.

Mr. Hetrick reviewed the issue of endorsement candidates and the requirement for the state law exam. Ms. Martin stated that all out-of-state applicants should pass the State Law exam before license can be issued. Mr. Hicks made motion to table this issue until later. Second by Mr. Ulsh. Motion carried.

Mr. Hetrick advised board that the bureau has been advised by previous legal counsel that once a person held an Idaho license, that person would always be considered for re-licensure based on the Idaho license. Motion by Mr. Hicks to table this matter until later. Seconded by Ms. Martin. Motion carried.

Mr. Hicks stated that the bureau needs direction concerning student instructors that begin training on work permit before taking boards. Motion by Ms. Martin to table this issue until legal counsel can review it. Seconded by Ms. Thompson. Motion carried

Mr. Limbaugh reviewed the Cosmetology financial report. No discussion.

Mr. Kersey reviewed the investigative report. The board was given recommendations by Kirsten Wallace for review. Michelle Bissy informed board that she is working on two investigations and that Meridian and Nampa inspections are being done. Joe Van Huss reported that he has no investigations and that inspections are proceeding well.

Mr. Hetrick gave an update on Laser Grade computer testing. At the regional NIC meeting it was indicated that Idaho was already doing Laser Grade. Mr. Hetrick informed Board that this was in error. Laser grade has confirmed with the Bureau that additional setup must be completed before the exams will be available. The initial agreement was signed with Laser Grade in 1999, at the Board's direction, to begin the set up. There have been some difficulties setting up test sites, but the Bureau has been advised that test sites are now available in Mtn. Home, Blackfoot, Rexburg, Logan UT and Spokane WA. A test site at North Idaho College in Northern Idaho will be online soon, as well as a test site in Boise. Laser grade has the state law exam and will soon have it ready. The Bureau is also making arrangements to have computer testing available at the Bureau. Mr. Hetrick said the Board will be kept fully informed of any progress information as it is available. Mr. Hicks discussed the situation of a candidate

taking the written NIC at a computer site in Idaho now, and it was noted that, though the exam is available, the Board would have to determine if they would accept the results. Mr. Hetrick stated that Laser Grade anticipates having test sites at the state colleges and universities. Mr. Hetrick noted that some equipment expenses (i.e., the surveillance equipment) may be incurred by the board if testing were done at the Bureau. Ms. Martin asked about a deadline for being set to begin computer testing. Mr. Hetrick stated that there is no deadline at the present.

Motion by Mr. Hicks to go into executive session to review pending litigation matters. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Ulsh to come out of executive session. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Hicks that recommended action for files #COS-B5A-04-00-003, COS-P4-01-00-001 and COS-BIB-01-99-033 be accepted as read. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Hicks to accept recommended action for file #COS-L1A-024-99-020 with the addition of violation of rule 815.01 that include \$500 fine for failure to obtain original license. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Hicks to not accept recommended action for file #COS-B1B-99-011; that for each establishment for first offense, impose a \$1,000 fine, license suspension of 180 days with 150 days stayed. Respondent having second offense, impose a \$2,000 fine, 360 days license suspension with 180 days stayed, and cost recovery to be determined by the Prosecuting Attorney. Seconded by Mr. Ulsh, Motion carried.

Motion by Mr. Hicks on file #COS-B1B-01-99-017 for the establishment for first offense, impose a fine of \$1,000, license suspension of 180 days with 150 days stayed, fine of \$500 for failure to obtain original license for the establishment, and cost recovery to be determined by the Prosecuting Attorney. For respondent's first offense impose a \$1,000 fine, license suspension of 180 days with 150 days stayed, and cost recovery to be determined by the Prosecuting Attorney. Seconded by Mr. Ulsh. Motion carried.

Mr. Kersey addressed the lack of Idaho articles in the Northwest Stylist. He noted that he does not have the time to devote to preparing regular articles and suggested that licensees or board members submit these articles. He further stated that after disciplinary actions are completed, he will submit these articles per the Boards request.

Mr. Kersey stated that, during a recent school inspection, an investigator discovered that 2-year old law books were being used. Mr. Kersey recommended that, upon legislative approval of new laws and rules, the Board consider having a work shop with all the school owners to go over the changes.

Mr. Hicks recommended that Mr. Kersey be invited to the law and rule rewrite meeting.

SCHOOL OWNERS

Mr. Larry Hicks addressed board as to student loan defaults. Mr Hicks informed board that, as a state agency, they have the authority to pursue the laws as written and that the board is privileged to that information. Mr. Hicks informed the board that they could make application to the NSLDS (National Student Loan Data System) to find out information on a licensee to see if they are up-to-date as to student loans. Packets will be available to board. Mr. Hicks reviewed the following with the board as to what is in a packet. Mr Hicks provided his interpretation of the laws and the Board's authority and noted that board should be able to take action against those individuals that are in default according to Idaho Code 54-816.

Mr. Erickson informed board that Idaho Code 54-817 allows licensees to be heard on charges regarding defaults.

Motion by Mr. Ulsh to go into executive session to discuss potential litigation. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Ulsh to come out of executive session. Seconded by Ms. Martin. Motion carried.

Meeting adjourned at 11:40 a.m.

Meeting reconvened at 1:15 p.m.

Motion by Mr. Hicks to go into executive session to discuss potential litigation. Seconded by Mr. Ulsh, Motion carried.

Motion by Ms. Thompson to come out of executive session. Seconded by Mr. Ulsh, Motion carried.

Motion by Mr. Hicks to accept application of COS051300HEN. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Hicks that COS041000JUL and COS012999DIC be sent a letter requesting discharge documentation. Seconded by Mr. Ulsh. Motion carried.

Discussion on COS091898STE. Motion by Ms. Martin to table until further investigation is conducted as to student hours. Seconded by Ms. Thompson. Mr. Hicks stated that any reprimand should be against the school and that the student be allowed the hours. Motion carried.

Motion by Mr. Ulsh as to COS011000STA that petition to challenge board exams be denied. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Ulsh that COS053100WHI petition for esthetic/electrology hours be denied. Seconded by Ms. Martin. Motion carried.

Motion by Mr. Hicks that COS011000STA be given to Mr. Kersey for further investigation. Seconded by Mr. Ulsh. Motion carried.

Discussion on COS050100HOL. Motion by Mr. Hicks that COS050100HOL be denied application for endorsement. Seconded by Ms. Martin. Motion carried.

Motion by Ms. Martin that registration and expenses be paid for the board, Mr. Limbaugh and Ms. Piippo to attend for the NIC convention in August. Seconded by Mr. Hicks. Motion carried.

Discussion was held as to esthetics instructor being added to Instructor Application. Law change was done to include only Cosmetology or Electrology on Instructor Application.

Discussion was held as to law question failures and law questions asked. The board reviewed the questions and determined there was nothing wrong with the law exam. There was discussion as to the failure rate. There was discussion as to law questions to be deleted from the exam. Delete #3, 4, 13, 29, 34. # 9, 12, 21 to be rewritten.

Mr. Hicks informed Board that after meeting with school owners they wanted the State Jurisprudence Law exam done away with completely. If it was kept, they recommended that more sanitation questions be added to the exam, and have all applicants take the exam. Ms. Thompson stated she felt the law exam is pertinent. Ms. Martin stated that the exam should include more safety and sanitation questions. Mr. Hicks stated that schools should be mandated to teach law.

The Board reviewed the proposed law changes. Discussion on 54-805 education requirements for licensure to be 12th grade instead of 10th grade. Leave student requirements at 10th grade level. Discussion on adding nail and esthetic instructor. Change (#8 pg 6) electrologist instructor wording to read same as cosmetologists

instructor (#2) page 5. Discussion on course hours for nail technician to raise to 600 hours and esthetician to 800 hours.

Discussion on 54-808 (#13) as to students transferring credits earned at one school to another school with permission of the board.

Discussion on 54-818 as to fee increases. Application fees to increase from \$75.00 to \$100.00.

Discussion on 54-827 as to permits to demonstrate or teach cosmetology. Take out temporarily practice out of wording. Take out (a) and (b) completely.

Meeting adjourned at 5:00 p.m.

Meeting reconvened at 8.00 a.m. on June 6, 2000

Representatives from the Idaho State Tax commission, Industrial Commission, IRS and Department of Labor gave a presentation regarding Contiguous/Primary Shop/independent contractors. They spoke on the issue of independent contractors, employer/employee relationships and business situations. Handouts were distributed as to employer vs independent contractor. Discussion was held as to guidelines for licensure for establishments. Discussion was held as to how Oregon handles their independent contract licensing and handouts were given as to Oregon Administrative Rules.

The Department of Labor spokesperson informed Board that they do workshops for individuals graduating from school concerning the laws and requirements for operating a business.

Discussion with Mr. Erickson regarding esthetics and electrology. Ms. Thompson informed Mr. Erickson that esthetics instructor license was omitted from new laws and rules when the esthetics and electrology license was split. Ms. Thompson asked to have special ruling to allow individual to become esthetic instructor prior to rule change. Mr. Erickson will review and advise the Board.

Discussion with Mr. Erickson was held on 54-816 (#9) as to board enforcing issue of defaults on contract between school and student. Motion by Mr. Hicks to enforce 54-816 (9) regarding defaults of student loans. Seconded by Mr. Ulsh. Motion carried.

Motion by Mr. Hicks to set up committee to assist the Board and Bureau as to implementing how to enforce 54-816 (9). Seconded by Mr. Martin. Motion carried.

Meeting recessed at 11:30 a.m.

Meeting reconvened at 1:15 p.m.

Discussion on contiguous licenses. Mr. Hicks asked for input from Bureau concerning contiguous shops. Discussion was held on the numbers of contiguous licenses, how they are issued, the square footage requirements, the inspection process and who is responsible for what areas. The Board discussed moving from one station to another station in the same primary shop and the application requirements and process.

Would not need to purchase new license if moving within same establishment. There was discussion about listing whether an applicant was an employee or self employed on renewal forms or application.

The Board agreed that more research should be done on contiguous before proceeding on this issue.

Motion made by Ms. Thompson that board meet on 6-25-00 at 4:00 p.m. Seconded by Mr. Hicks. Motion did not carry. Motion made by Ms. Martin that board meet at 10:00

a.m on 6-25-00 at Continental Beauty College. Seconded by Ms. Thompson. Motion carried.

Discussion on esthetician instructor. Motion made by Ms. Thompson to pass temporary rule to allow an esthetic instructor license. Seconded by Mr. Hicks. Motion carried.

Discussion on Rule 301(01) regarding Change of Ownership. Motion by Mr. Hicks that the Board of Cosmetology adopt a written interpretation that if there is any movement of a contiguous license within a primary establishment, no fee will be required with the application required by the board. Seconded by Ms. Thompson. Motion carried.

Motion made by Ms. Thompson that correspondence has been reviewed and that no action taken. Seconded by Mr. Ulsh. Motion carried.

Motion made by Mr. Hicks that an individual on a cosmetology work permit may begin their training as a student instructor at a licensed school of cosmetology. Seconded by Mr. Ulsh. Discussion held. Motion carried.

Discussion on previous Idaho Licenses. Board stated that could give old license number or new license number.

Motion made by Mr. Hicks that all endorsement candidates must take state jurisprudence law exam. Seconded by Ms. Martin. Motion carried.

Motion made by Mr. Hicks to approve apprenticeship program . Seconded by Mr. Ulsh. Motion carried.

Motion made by Mr. Ulsh to approve endorsement of COS060200DYE. Seconded by Ms. Thompson. Motion carried.

Motion by Mr. Ulsh to adjourn meeting. Seconded by Ms. Martin. Motion carried.

Meeting adjourned at 4:00 p.m.